

IN THE DISTRICT COURT OF THE UNITED STATES
FOR THE WESTERN DISTRICT OF NORTH CAROLINA
CHARLOTTE DIVISION
3:06cr87

UNITED STATES OF AMERICA

vs.

LARRY DUNLAP FRAZIER

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ORDER

THIS MATTER is before the Court upon letters of the defendant pro se requesting a bond hearing (Doc. No. 69, 70, 71), and appointment of new counsel (Doc. No. 71).

The defendant pled guilty to Count One of the indictment on August 16, 2006, charging conspiracy to possess with intent to deliver at least 500 grams of cocaine. (Doc. No. 58: Plea Agreement; Doc. No. 63: Acceptance and Entry of Guilty Plea). Thus, the defendant has been found guilty and is awaiting imposition of sentence for an offense described in subparagraph (C) of subsection (f)(1) of 18 U.S.C. § 3142. Pursuant to § 3143(a)(2), the defendant shall be detained unless the Court finds a substantial likelihood that a motion for acquittal or new trial will be granted; or an attorney for the government has recommended that no sentence of imprisonment be imposed; and the Court finds by clear and convincing evidence the person is not likely to flee or pose a danger to any other person or the community. 18 U.S.C. § 3143(a)(2)(A)(i), (ii) and (B).

Upon review of the record, even in a light most favorable to the defendant, the Court finds the defendant has not alleged or established that there is a substantial likelihood that motion for acquittal or new trial will be granted or that an attorney for the government has recommended that no sentence of imprisonment be imposed. Thus, the Court is obligated by the statute to detain the defendant because the prerequisites for release have not been met. Id.

The defendant faults his counsel for not filing a motion for a bond hearing. This allegation insufficient to appoint substitute counsel. United States v. Mullen, 32 F.3d 891 (4th Cir. 1994).

IT IS, THEREFORE, ORDERED that the defendant's motions are DENIED.

The Clerk is directed to certify copies of this order to the defendant, counsel for the defendant, and to the United States Attorney.

Signed: May 8, 2007

A handwritten signature in cursive script, reading "Robert J. Conrad, Jr.", written over a horizontal line.

Robert J. Conrad, Jr.
Chief United States District Judge

